

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

KASEY FOX, et al.

PLAINTIFFS

vs.

No. 4:19-cv-37-KGB

TTEC SERVICES CORP.

DEFENDANT

**PLAINTIFFS' MOTION FOR CONDITIONAL CERTIFICATION,
FOR DISCLOSURE OF CONTACT INFORMATION AND TO SEND NOTICES**

COME NOW Plaintiffs Kasey Fox, et al., individually and on behalf of all others similarly situated, by and through their attorneys Sean Short, Stacy Gibson and Josh Sanford of the Sanford Law Firm, PLLC, and for their Motion for Conditional Certification, for Disclosure of Contact Information, and to Send Notices, they do state and allege as follows:

1. This Motion is time sensitive and calls for an expedited review, as explained in the Brief in Support.
2. Plaintiffs brought this suit on behalf of all former and current hourly paid customer service representatives employed by Defendant TTEC Services Corp., to recover wages and other damages pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* ("FLSA") and the Arkansas Minimum Wage Act, Ark. Code Ann. § 11-4-201, *et seq.* ("AMWA").
3. Plaintiffs bring this action as a collective action pursuant to 29 U.S.C. § 216(b). Plaintiffs ask this Court to conditionally certify the following collective:

All hourly paid Healthcare Advocates employed after January 17, 2016.

4. Section 216(b) of the FLSA provides that “[a]n action . . . may be maintained against any employer . . . by any one or more employees for and in behalf himself or themselves and other employees similarly situated.” 29 U.S.C. § 216(b).

5. Plaintiffs hereby move the Court to conditionally certify this lawsuit as a collective action for the purpose of providing notice of the action to members of the collective action.

6. Plaintiffs and the members of the collectives are sufficiently similarly situated that conditional certification of the proposed class is appropriate.

7. Attached as Exhibits 1 and 2, respectively, are the *Notice and Consent to Join* proposed by Plaintiffs for distribution in this case. Attached as Exhibits 3 and 4, respectively, are the *Electronic Transmissions* and *Electronic Consent to Join* proposed by Plaintiffs for electronic distribution in this case. The *Notices* and *Consents* make no comment on the merits of the case. The *Notices* are narrowly drawn to notify potential class members of the pending litigation, the composition of the class and their right to “opt in” to the litigation.

8. Plaintiffs request a period of ninety (90) days to distribute the *Notice* and file *Consent to Join* forms with this Court and request this Court to enter an Order directing Defendant to provide the names, last known mailing addresses, cell phone numbers and email addresses of potential opt-in Plaintiffs no later than one (1) week after the date of the entry of the Order granting this Motion.

9. Plaintiffs request that this Court permit them to provide the *Notice* to potential opt-in Plaintiffs through mail and email message, or alternatively mail and text message, and that this Court permit Plaintiffs to distribute a reminder *Postcard* via

traditional U.S. Mail and a follow-up notice by email, or alternatively text message.

10. To guarantee notice to Defendant's current employees, Plaintiffs asks that Defendant be required to post the *Notice* in a conspicuous location at its call centers in the same areas in which it posts government-required notices.

11. Plaintiffs incorporate their Brief in Support of the current Motion, filed concurrently herewith.

12. In support of the current Motion, Plaintiffs incorporate the following exhibits:

- Ex. 1: Proposed Notice of Right to Join Lawsuit ("*Notice*");
- Ex. 2: Proposed Mail Consent to Join Collective Action ("*Mail Consent to Join*");
- Ex. 3: Proposed Texts of Electronic Transmissions ("*Electronic Transmissions*");
- Ex. 4: Proposed Electronic Consent to Join ("*Electronic Consent to Join*");
- Ex. 5: Proposed Reminder Postcard ("*Postcard*");
- Ex. 6: Declaration of Attorney Josh Sanford;
- Ex. 7: Declaration of Yvette Davis; and
- Ex. 8: Declaration of Brandi Henson.

WHEREFORE, premises considered, Plaintiffs pray that the Court:

- A. Conditionally certify the collectives proposed by Plaintiffs;
- B. Approve of the use of regular U.S. mail and email (or alternatively U.S. Mail and text message) to distribute the Plaintiffs' proposed *Notice*, *Mail Consent*, and *Email Consent* and approve the use of RightSignature to obtain electronic signatures;
- C. Grant approval to the form and content of Exhibits 1–5;
- D. Order Defendant to produce the names, mailing addresses, email addresses, telephone numbers, and dates of employment of each putative collective member in an electronically importable and malleable electronic spreadsheet format, such as Excel, within seven (7) days after this Court's Order is entered;
- E. Allow for an opt-in period of ninety (90) days, to begin seven (7) days after Defendant produces the names and contact information for the putative collective

members, in which collective members may submit a *Consent to Join* this lawsuit as an opt-in plaintiff;

F. Grant Plaintiffs leave to send a follow-up reminder Postcard via U.S. Mail and a follow-up reminder email, beginning thirty (30) days after the opt-in period begins, to potential plaintiffs who have not responded to the *Notice*; and

G. Award costs and a reasonable attorney's fee and grant all other relief to which Plaintiffs may be entitled, whether specifically prayed for or not.

Respectfully submitted,

**KASEY FOX, REJIA FOOT, LAKESHA
SCOTT, TEMISHA DANIEL, MASHAYA
JORDAN, BRANDI HENSON, YVETTE
DAVIS, ANTIONETTE LANE, KIRSTIE
KELLY AND LATRICE PETERSON-DAVIS,
Each Individually and On Behalf of All
Those Similarly Situated, PLAINTIFFS**

SANFORD LAW FIRM, PLLC
ONE FINANCIAL CENTER
650 SOUTH SHACKLEFORD, SUITE 411
LITTLE ROCK, ARKANSAS 72211
TELEPHONE: (501) 221-0088
FACSIMILE: (888) 787-2040

Sean Short
Ark. Bar No. 2015079
sean@sanfordlawfirm.com

Stacy Gibson
Ark. Bar No. 2014171
stacy@sanfordlawfirm.com

Josh Sanford
Ark. Bar No. 2001037
josh@sanfordlawfirm.com